

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Vincent L. Neumon, Sr.,)	C/A No. 8:14-2060-JFA-JDA
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Warden Larry Cartledge; South Carolina)	
Department of Corrections, et al.,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Vincent L. Neumon, filed this action in state court and the defendants removed it to this court on the basis that plaintiff was asserting federal constitutional claims under 42 U.S.C. § 1983. The plaintiff then filed a motion to amend his complaint and remand the matter back to state court, specifically contending that he did not seek to bring federal constitutional claims in his complaint.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that the matter should be remanded to state court. While the plaintiff raises claims of excessive force and cruel and unusual punishment in violation of the South Carolina Constitution, the plaintiff expressly denies raising any claims under the federal law or involving a federal question. The Report sets forth in detail the relevant facts

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

and standards of law on this matter, and the court incorporates such without a recitation.

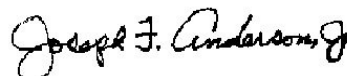
The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on June 18, 2014. The plaintiff did not file objections to the Report; rather, he filed a memorandum in support of remand.

The Magistrate Judge also suggests that the court should not require plaintiff to pay the defendants' filing fee for removal as the defendant requests. Further, the Magistrate Judge recommends not dismissing the action with prejudice, because plaintiff's amended complaint was proper under Fed. R. Civ. P. 15.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporates it herein by reference. Accordingly, the plaintiff's motion to remand (ECF No. 23) is granted this action is remanded back to the Court of Common Pleas for Greenville County.²

IT IS SO ORDERED.

July 14, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

² Plaintiff's only reference to the state court case is 53107-72GA, presumably in Kershaw County, South Carolina.